



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Sean Scott, Deputy Director, Division of Environmental Health and Sustainability
Cary E. Ruble, Regulation Development and Enforcement Coordinator,
Division of Environmental Health and Sustainability

Through: Jeff Lawrence, Director
Division of Environmental Health and Sustainability (JL)

Date: February 17, 2016

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1010-20, *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado*, with a request for the rulemaking hearing to occur on February 17, 2016

The Division of Environmental Health and Sustainability (“division”) is proposing administrative revisions throughout 6 CCR 1010-20, *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado*, and is requesting that the Board of Health schedule a rulemaking hearing to consider adoption of the proposed amendments at the April 20, 2016, Board of Health meeting.

In compliance with Executive Order D 2012-002 and the State Administrative Procedure Act (24-4-103.3, C.R.S.), the Colorado Department of Public Health and Environment (“department”) has conducted a mandatory review of the *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado*. Based on this review, and in consideration of U.S. Food and Drug Administration’s (FDA) proposed changes to the federal indoor tanning standards, it was determined that only administrative amendments to 6 CCR 1010-20 will be proposed at this time. 6 CCR 1010-20 was last amended by the Board of Health in 1993.

The proposed revision includes:

- Standardizing the format of the regulation to comply with the Colorado Secretary of State CCR style template.

Although the proposed revisions to the artificial tanning regulations presently include only administrative changes, the department is aware that on December 18, 2015, the FDA issued two proposed changes and opened a 90-day public comment period regarding radiation safety performance standards for electronic products, including sunlamp products (i.e., artificial tanning devices).

The proposed revisions to the Federal standards, if adopted, would:

- Restrict use of sunlamp products to individuals 18 and older; and
- Require that sunlamp manufacturers and tanning facilities take additional measures to improve the overall safety of these devices.

Indoor tanning is a known contributor to skin cancer, including melanoma (its most deadly form), and other skin damage. Yet, 1.6 million minors indoor tan each year, increasing their risk of skin cancer and other damage (based on data in the 2013 National Youth Risk Behavior Survey). According to the American Academy of Dermatology, those who have been exposed to radiation from indoor tanning are 59 percent more likely to develop melanoma than those who have never tanned indoors. In addition, the effects of exposure to UV radiation add up over one's lifetime. Therefore, UV radiation exposure in children and teenagers puts them at a greater risk for skin and eye damage later in life. The proposed changes to Federal standards would significantly reduce risk by preventing the use of artificial tanning devices by minors and reducing the risk of using these devices for adults.

Section 25-5-1006(1) C.R.S., requires that the standards established in the department's artificial tanning device regulations can be no less stringent than the Federal (FDA) standards. Should these proposed changes to the Federal standards be adopted, the department would initiate a subsequent rulemaking and take other appropriate measures to ensure compliance with the revised FDA rules.

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY**

for Amendments to

6 CCR 1010-20, *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado*

Basis and Purpose.

The purpose of the Board of Health's *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado*, 6 CCR 1010-20, is to establish provisions regulating the registration and regulation of facilities and equipment which employ ultraviolet and other lamps for the purpose of artificially tanning the human skin through the application of ultraviolet radiation.

The amendments to 6 CCR 1010-20, are being implemented pursuant to the statutory authority granted the Board of Health in Sections 25-5-1006(1), (2)(a), and (2)(b), Colorado Revised Statute (C.R.S.). The Division of Environmental Health and Sustainability ("division") is directed by Executive Order D 2012-002 and the State Administrative Procedure Act (24-4-103.3, C.R.S.) to review all regulations at least once every seven years to ensure that they are efficient, effective and essential. The artificial tanning regulations were last amended in 1993.

The proposed revisions to *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado* include:

- Standardizing the format of the regulation to comply with the Colorado Secretary of State CCR style template.

This rulemaking does not propose changes to align with proposed federal standards regarding artificial tanning radiation safety performance standards as the Food and Drug Administration (FDA) has yet to adopt the proposed changes. Should the proposed changes to the Federal standards be adopted, the department would initiate and complete a subsequent rulemaking effort, inclusive of stakeholder engagement, to align with the new FDA rules.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes: Sections 25-5-1006(1), (2)(a), and (2)(b), C.R.S.

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____; rules are ____ authorized ____ required.
 X No

Is this rulemaking due to a federal statutory or regulatory change?

_____ Yes
 X No

Does this rule incorporate materials by reference?

_____ Yes
 X No

Does this rule create or modify fines or fees?

_____ Yes
 X No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1010-20, *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado*

- 1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Establishments providing access to and users of artificial tanning devices and CDPHE are potentially affected and will benefit from the consistency afforded by the proposed administrative changes to the regulations.

No potential costs will be incurred by artificial tanning facilities based on the administrative changes to the regulation.

- 2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.**

As proposed revisions to the current artificial tanning regulation are only administrative and do not include changes to existing language, therefore, no qualitative or quantitative impact on the regulated community is anticipated.

- 3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

The implementation costs of the proposed revised regulation to CDPHE and the Division of Environmental Health and Sustainability are negligible.

- 4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**

At no cost to the regulated community and minimal cost to the department, the benefits of the proposed revision will provide consistency in the formatting of the division's regulations and afford greater efficiency in the incorporation of these changes through future rulemaking should the FDA adopt the proposed changes to the Federal standards.

The costs of inaction are minimal, and there are no benefits from inaction. Inaction would be a disservice to the regulated community and would not comply with department policy to review and update, if necessary, all regulations to assure their relevance.

- 5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

There are no less costly or less intrusive methods for achieving the purpose of the proposed revised regulation. The amendments are necessary to update the formatting

of the rules and achieve consistency with other recently revised division regulations.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The artificial tanning device regulations were last revised in 1993. Due to department policy regarding the periodic review and updating of all state regulation and the potential for changes to the FDA rules, alternatives to this rulemaking were not considered.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

During review of the current artificial tanning regulation and the proposed revisions, the following sources of information were reviewed:

- Executive Order D 2012-002 (EO 2), codified by the Colorado General Assembly at Section 24-4-103.3 CRS (2014)
- Colorado Revised Statutes, Title 25, Article 5, Part 10, Section 1001-1011, *Artificial Tanning Device Operation Act* (25-5-1001-1011, C.R.S.).
- 5 CCR 1010-20, *Artificial Tanning Device Regulations*, Effective Date: January 20, 1993
- Federal regulations via <http://www.regulations.gov/#!home>
- <https://www.federalregister.gov/articles/2015/12/22/2015-32023/sunlamp-products-proposed-amendment-to-performance-standard>

STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1010-20, *Rules and Regulations Governing Artificial Tanning Devices in the State of Colorado*

The following individuals and/or entities were included in the development of these proposed rules:

- CDPHE staff:
 - Cary Ruble, CDPHE - DEHS
 - Sean Scott, CDPHE - DEHS
 - Jeff Lawrence, CDPHE - DEHS
 - Deborah Nelson, Board of Health Administrator

The following individuals and/or entities were notified that this rulemaking was proposed for consideration by the Board of Health:

- CDPHE staff in the Prevention Services Division
- The public via the Department's website

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The division has been tracking opportunities to improve and modernize this regulation since its last amendment in 1993. A question was raised as to whether the board could prohibit artificial tanning by individuals under the age of eighteen. The Department studied the statute and determined that current statute does not authorize a rule that prohibits artificial tanning. However, the statute does require that the board's rules be no less stringent than the Federal (FDA) standards. On December 18, 2015, the FDA issued two proposed changes and opened a 90-day public comment period regarding radiation safety performance standards for electronic products, including sunlamp products (i.e., artificial tanning devices).

The proposed revisions to the Federal standards related to artificial tanning devices, if adopted, would:

- Restrict use of sunlamp products to individuals 18 and older; and
- Require that sunlamp manufacturers and tanning facilities take additional measures to improve the overall safety of these devices.

Should these proposed changes to the Federal standards be adopted, the Department would initiate a subsequent rulemaking effort, inclusive of stakeholder engagement, and take any other steps needed to align with the Federal requirements as required by 25-5-1006(1), C.R.S.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

The administrative revisions to the regulation will continue to promote the healthy and safe operation, maintenance, and use of artificial tanning devices by Colorado residents regardless of race, color, national origin, or income. The regulation does not have implications for health equity and environmental justice considerations.

~~ARTIFICIAL TANNING DEVICE~~

~~REGULATIONS~~

Effective Date: ~~January 20, 1993~~



~~Colorado Department
of Public Health
and Environment~~

~~AUTHORITY:~~

~~SECTION 25-5-106(1), (2)(a), (2)(b),
Colorado Revised Statutes, 1989, as Amended~~

~~COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
4300 CHERRY CREEK DRIVE SOUTH
DENVER, COLORADO 80222-1530
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~~This title page does not constitute an official part of any regulation. Information contained on the title page is provided by the Consumer Protection Division from sources deemed reliable and is solely for informational and historical purposes.~~

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Division of Environmental Health and Sustainability

6 CCR 1010-20

RULES AND REGULATIONS GOVERNING
ARTIFICIAL TANNING DEVICES
IN THE STATE OF COLORADO

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1 COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

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3 Division of Environmental Health and Sustainability

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5 6 CCR 1010-20

6
7 RULES AND REGULATIONS GOVERNING
8 ARTIFICIAL TANNING DEVICES
9 IN THE STATE OF COLORADO

10 ARTIFICIAL TANNING DEVICE REGULATIONS

11 20.1 Authority

12
13 This regulation is adopted pursuant to the authority in Section 25-5-1006(1),(2)(a), and (2)(b),
14 Colorado Revised Statute (C.R.S.) and is consistent with the requirements of the State
15 Administrative Procedures Act, Section 24-4-101, *et seq.*, C.R.S.

16
17 1-10120.2 Scope and Purpose

18
19 A. ~~These rules and regulations provide for~~ This regulation shall govern the registration and
20 regulation of facilities and equipment which employ ultraviolet and other lamps for
21 the purpose of artificially tanning the human skin through the application of
22 ultraviolet radiation.

23
24 B. This regulation does not apply to the following exempt devices, as provided in Section
25 25-5-1005(1)(a), (b) and (c), C.R.S.:

26
27 1. Artificial tanning devices which are used exclusively for personal,
28 noncommercial purposes by the owner, members of the owner's family, or
29 persons authorized by the owner to use the device;

30
31 a. Phototherapy devices used by or under the supervision of a licensed
32 physician or other licensed health care professional with the scope of
33 such person's practice for the purposes of treating diseases; and,

34
35 b. Artificial tanning devices which are in transit or storage and are not
36 made available for the use during such transit or storage.

37
38 C. Nothing in this regulation shall be construed to mean that the Department endorses
39 any type of artificial tanning device, any location of such devices, any business which
40 provides artificial tanning devices for the use by the public, or the use of any such
41 devices.

44 **20.3 Applicability**

- 45
46 A. The provisions of this section shall be applicable to all artificial tanning devices and
47 facilities as defined in Sections 25-5-1003 and 25-5-1004, C.R.S., and definitions
48 20.4(A)(2) and 20.4(A)(14) of these regulations.
49

50 **1-10220.4 Definitions**

- 51
52 A. For the purpose of these rules and regulations:

- 53
54 1. (a) — Approved shall means acceptable to the Colorado Department of Public
55 Health and Environment, or its authorized agents, or employees based on
56 determination of conformance with applicable documented standards and good
57 public health practices.
58
59 2. (b) — Artificial Tanning Device shall means any equipment that as defined in
60 Section 25-5-1003(1), C.R.S. ~~1989, as amended.~~
61
62 3. (c) — Board shall means the State Board of Health as defined in Section 25-5-
63 1003(2), C.R.S. ~~1989, as amended.~~
64
65 4. (d) — Consumer shall means any individual who is provided access to a tanning
66 facility which is required to be registered as provided in Section 25-5-1004(1), C.R.S.
67 ~~1989, as amended.~~
68
69 5. (e) — Department shall means the Colorado Department of Health, or its authorized
70 agents, or employees.
71
72 6. (f) — Inspection shall means an official examination or observation by the
73 Department including, but not limited to, tests, surveys, and monitoring of artificial
74 tanning devices and tanning facilities.
75
76 7. (g) — Operator shall means any individual designated by the registrant to operate
77 or to assist and instruct the consumer in the correct operation and use of artificial
78 tanning device(s).
79
80 8. (h) — Owner shall means a person in possession and in charge of an artificial
81 tanning facility, and/or tanning device(s), except as exempted in ~~4-10320.2(B)~~ of
82 these regulations.
83
84 9. (i) — Person shall means a natural person, partnership, association, company,
85 corporation, or organization or a manager, agent, servant, officer, or employee
86 thereof.
87
88 10. (j) — Phototherapy Device shall means a piece of equipment as defined in Section

25-5-1003(5), C.R.S. ~~1989, as amended.~~

11. ~~(k) — Registrant shall means any person who is registered with the Department as provided in Section 25-5-1004(1), C.R.S. 1989, as amended.~~

12. ~~(l) — Registration shall means registration with the Department in accordance with the provisions of Section 25-5-1004(1), C.R.S. 1989, as amended.~~

13. ~~(m) — Tanning equipment shall means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body.~~

14. ~~(n) — Tanning Facility shall means any location, premises, place, area, structure, or business, as defined in Section 25-5-1003(6), C.R.S. 1989, as amended.~~

15. ~~(o) — Ultraviolet radiation shall means electromagnetic radiation as defined in Section 25-5-103(7), C.R.S. 1989, as amended.~~

~~1-103 Exemptions. Exemptions shall be as provided in Section 25-5-1005(1)(a)(b) and (c), C.R.S. 1989, as amended.~~

2-20120.5 Application for Registration of Artificial Tanning Facilities

A. ~~(a) — Each person having an artificial tanning facility on January 1, 1993 shall apply for registration of such facility no later than thirty (30) days from January 1, 1993.~~

B. ~~(b) — Each person establishing or acquiring a tanning facility after January 1, 1993, shall apply for registration of each location for such facility prior to beginning operation of such a facility.~~

C. ~~(c) — The application required in 2-202(a) and 2-202(b) of this regulation shall be completed on forms provided by the Department and shall contain all the information required by such forms.~~

D. ~~(d) — The Department shall require at least the following information on the forms provided when applying for registration of each tanning facility:~~

1. ~~(1) — Name, mailing address, location if different than mailing address, and telephone number of the tanning facility;~~

2. ~~(2) — Name(s), mailing address(es) and telephone number(s) of the owner(s) of the tanning facility;~~

3. ~~(3) — The manufacturer(s), model number(s), and type(s) of ultraviolet lamp(s) or tanning equipment located within the facility;~~

134 4. ~~(4)~~—The geographic areas within the State to be covered, if the facility is mobile;
135 and,

136
137 5. ~~(5)~~—A signed and dated application for registration that the applicant will comply
138 with the requirements of these regulations.
139

140 ~~2-202~~**20.5.1** Duration of Registration:

141
142 A. ~~(a)~~—Registration is valid for a period of one calendar year. Applications for registration
143 shall be made during the month of December of each year.
144

145 B. ~~(b)~~—All registrations shall expire at midnight on December thirty-first of the year for
146 which issued.
147

148 C. ~~(c)~~—The annual registration fee shall be prorated on a monthly basis for any initial
149 registration received after January 1 of any year.
150

151 D. ~~(d)~~—A registration shall not be granted without prior payment of the tanning equipment
152 fee required in Section 25-5-1004(2), C.R.S.
153

154 ~~2-203~~**20.5.2** Transfer of Registration:

155
156 A. Registration is not transferable from one person to another person or from one tanning
157 facility to another tanning facility.
158

159 ~~2-204~~**20.5.3** Report of Change:

160
161 A. ~~(a)~~—The registrant shall notify the Department in writing before making any change which
162 would render the information contained in the application for registration no longer
163 accurate.
164

165 B. ~~(b)~~—Any new or additional tanning equipment which was not previously reported to the
166 Department shall be reported at the time of annual registration.
167

168 ~~2-205~~**20.5.4** Termination of Registration:

169
170 A. The Department may terminate a registration upon receipt of a written request for
171 termination from the registrant. Once a tanning facility is registered and the fee has been
172 paid for the year, no portion of the fee will be refunded.
173

174 ~~2-206~~**20.6** Prohibited Advertisement:

175
176 A. ~~(a)~~—No person, in any advertisement or promotion, shall state or imply that because such
177 person or person's tanning facility is registered with the Department pursuant to the
178 provisions of Section 25-5-1004(1), C.R.S. ~~1989, as amended,~~ and these regulations, that any

activity under such registration has been approved by the Department.

- B. No person, in any advertisement or promotion, shall indicate that such person's artificial tanning device(s) is safe or free of hazards from ultraviolet radiation, nor imply use as a medical device or treatment.

3-30120.7 Construction and Operation of Tanning Facilities

Unless otherwise ordered or approved by the Department, each tanning facility shall be constructed, operated and maintained to meet the following minimum requirements:

(a)20.7.1 Warning Signs

- A. (1)——The following warning sign shall be posted in the immediate proximity (within one meter) of each tanning station; it shall be readily legible, clearly visible, and not obstructed by any barrier, equipment, or other item present so that the user can easily view the warning sign before activating the tanning equipment.

DANGER--ULTRAVIOLET RADIATION

- Follow instructions.
- Avoid overexposure. ~~As with natural sunlight, exposure can cause premature aging of the skin and skin cancer. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.~~
- **WEAR PROTECTIVE EYEWEAR. FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES.**
- Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp if you are using medications or have a history of skin problems, or believe yourself especially sensitive to sunlight.
- If you do not tan in the sun, you are unlikely to tan from the use of this product.

- B. (2)——The lettering on each warning sign shall be at least ten millimeters high for all words shown in capital letters and at least five millimeters high for all lower case letters.

(b)20.7.2 Physical Facilities

- A. (1)——Only tanning equipment manufactured in accordance with the specifications set forth

in ~~1994 21 CFR Part 1040, Section 1040.20~~, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products", shall be used in tanning facilities. The exact nature of compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by ~~1994 21 CFR Part 1010, Section 1010.3~~.

- B. (2) — Each assembly of tanning equipment shall be equipped with a timer which complies with the requirements of ~~1994 21 CFR 1040.20 (c) (2)~~. The maximum timer interval shall not exceed the manufacture's maximum recommended exposure time. No timer interval shall have an error exceeding plus or minus 10 percent of the maximum timer interval for the product. The registrant shall ensure that tests are preformed on each assembly of tanning equipment, at least annually, and documented in writing to ensure the timer is accurate to within 10% of the maximum exposure time. A record of timer testing results shall be kept at each tanning facility location.
- C. (3) — The timer intervals shall be numerically indicated, at ten (10) minute intervals to a maximum of thirty (30) minutes.
- D. (4) — The timer may not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle, when emission from the tanning device has been terminated.
- E. (5) — The timer requirements do not preclude a product from allowing a user to reset the timer before the end of the preset time interval.
- F. (6) — Each assembly of tanning equipment shall be provided with a control on the equipment to enable the consumer to terminate manually radiation emission from the equipment at any time without disconnecting the electrical plug or removing any ultraviolet lamp.
- G. (7) — Tanning equipment shall be provided with ground fault protection on the electrical circuit, or other methods for preventing shock.
- H. (8) — Tanning equipment shall include physical barriers to protect consumers from injury induced by touching or breaking the lamps.
- I. (9) — Each tanning device shall be operated to preclude any thermal burns to human skin or cause heat prostration.

(c)20.7.3 Additional Requirements for Stand-Up Booths and any Cabinet or Vertical Tanning Device:

- A. (1) — Tanning booths and cabinets or vertical tanning device(s) designated for stand-up use shall also comply with the following additional requirements:
- B. (2) — Booths shall have physical barriers or other means, such as handrails or floor

267 markings, to indicate the proper exposure distance between ultraviolet lamps and the
268 consumer's skin;

269
270 C. ~~(3)~~—Booths shall be constructed with sufficient strength and rigidity to withstand the
271 stress of use and the impact of a falling person;

272
273 D. ~~(4)~~—Access to booths shall be rigid construction with doors which are non-latching and
274 open outwardly;

275
276 E. ~~(5)~~—Booths shall be equipped with handrails and non-slip floors.

277
278 ~~(d)~~**20.7.4** **Protective Eyewear:**

279
280 A. ~~(1)~~—Registrants are responsible to provide protective eyewear to each consumer during
281 use of tanning equipment however; consumers may use their own protective eyewear if
282 approved by the registrant.

283
284 B. ~~(2)~~—The protective eyewear in this regulation shall meet the requirements of 1994
285 21 CFR 1040.20(c)(4).

286
287 C. ~~(3)~~—Tanning facility operators shall instruct the consumer in the proper utilization of the
288 protective eyewear. Eyewear must be worn when the lamps are energized. The eyepiece
289 must be in place, and must cover the eye sockets of the user.

290
291 D. ~~(4)~~—Tanning facility operators shall ensure all protective eyewear is clean and sanitized,
292 the eyewear has no defects, the frames and lenses contain no cracks, abrasions and that the
293 lenses are not clouded.

294
295 ~~(e)~~**20.7.5** **Sanitation:**

296
297 A. ~~(1)~~—The registrant shall ensure that an operator properly sanitizes the tanning equipment
298 and the protective eyewear between every use by a consumer. Exposure to the ultraviolet
299 radiation produced by tanning equipment is not adequate sanitization. The sanitizer used
300 shall be one registered for such use by the U.S. Environmental Protection Agency or the
301 Colorado Department of Agriculture.

302
303 B. ~~(2)~~—The floors, walls and fixtures in tanning facilities shall be kept clean and in good
304 repair at all times.

305
306 C. ~~(3)~~—If towels or linens are provided to consumers, they shall be clean and sanitary.
307 Towels and linens shall be washed between each use. Towels shall be stored in a clean
308 place. Soiled towels and linens shall be stored in nonabsorbent containers or washable
309 laundry bags.

~~(f)~~**20.7.6 Consumer Warning:**

A. ~~(1)~~—Prior to initial exposure to ultraviolet radiation at a tanning facility, the consumer shall be given a copy of the warning statements and must be supplied with at least the following information:

1. ~~(a)~~—A representative list of potential photosensitizing drugs and agents. This list should at least include drugs or agents in the product classes of acne treatment, antibacterials, antibiotics, anticonvulsants, antidepressants, antibacterials, antihypertensive, dye, estrogen and progesterones, melanogenics, perfumes and toilet articles, tranquilizers, antihistamines and antimicrobials/antinfected agents.

2. ~~(b)~~—Information regarding potential negative health effects related to ultraviolet exposure, including:

a. ~~(1)~~—The increased risk of skin cancer later in life; and potential detrimental health risks including skin cancer; a significant increased risk of skin cancer/melanoma, when a painful blistering sunburn has occurred prior to the age of eighteen (18).

b. ~~(2)~~—The increased risk of skin thickening and premature aging;

c. ~~(3)~~—The possible activation of some viral conditions (cold sores); and,

d. ~~(4)~~—The possibility of skin burning or rashes, especially if using any of the potential photosensitizing drugs and agents. Potential clients who are using photosensitizing medication, have a history of sun sensitivity or have a history of sun related skin problems should be advised not to use the tanning device.

3. ~~(c)~~—Basic information on how different skin types respond to tanning.

4. ~~(d)~~—An explanation of the need to use protective eyewear with both ultraviolet-A (UVA) and ultraviolet-B (UVB) systems, and that closing the eyes is not sufficient to prevent possible eye damage.

5. ~~(e)~~—Information that tanning may be inadvisable during pregnancy and information that tanning is inadvisable for persons with photosensitizing diseases, melanoma or other skin cancers.

~~4-401~~**20.8 Records**

A. ~~(a)~~—The registrant shall maintain records ensuring that the requirements of ~~3-301(b)(1)~~ and ~~(2)~~ 20.7.2(A), have been met.

- B. (b) — Each registrant shall keep records showing receipt, transfer, and disposal of all tanning equipment.

5-50120.9 Report of Accident or Adverse Reaction

- A. (a) — The registrant shall submit to the Department a written report, as provided in Section 25-5-1007(6) C.R.S. 1989, as amended, of any accident or adverse reaction to the use of any artificial tanning device within fifteen days after discovery of the event;

- B. (b) — The report shall include:

1. (1) — The name, address, telephone number of the affected individual;
2. (2) — The name, address, telephone number of tanning facility, and identification of the specific tanning device involved;
3. (3) — The nature of the actual or alleged accident or adverse reaction, and any other information relevant to the actual or alleged accident or adverse reaction including duration of exposure; and,
4. (4) — Name of attending physician, if applicable, medical attention sought and treatment.

6-60120.10 Replacement of Ultraviolet Lamps, Bulbs or Filters

- A. (a) — The registrant shall only use lamps which have been certified with the Food and Drug Administration (FDA) as "equivalent" lamps under the FDA regulations and policies applicable at the time of replacement of the lamps.

- B. (b) — The registrant shall replace defective or burned out lamps, bulbs or filters with a type intended for use in the affected tanning equipment as specified on the product label and having the same spectral distribution.

- C. (c) — The registrant shall maintain manufacturer's literature demonstrating the equivalency of any replacement lamps.

- D. (d) — Defective or burned-out lamps or filters shall be replaced before further use of the tanning equipment.

- E. (e) — Lamps and bulbs designated for medical use only shall not be used.

7-70120.11 Inspections

- A. (a) — Agents of the Department, after proper identification, shall be permitted to enter any tanning facility during business hours for the purpose of making inspections,

investigating complaints and to determine compliance with these regulations. Agents of the Department shall not inspect any tanning device while in use by consumers.

B. (b) — Each registrant shall make available to the Department records and documents, upon reasonable notice, maintained pursuant to the requirements of these regulations.

~~Copies of "Code of Federal Regulations" (CFR) are available for reference from the Director, Consumer Protection Division, Colorado Department of Health, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530. This reference does not include later amendments to or editions of the incorporated material.~~